

## Polygamy in India

### Why in news?

Assam Chief Minister proposed to enact a legislative law to ban polygamy to address the growing incidents of the child marriages in the state.

### What are the provisions that ban polygamy?

- Polygamy is governed both by personal laws and the Indian Penal Code (IPC).
- **The Parsi Marriage and Divorce Act 1936** - Prohibited polygamy in the Parsi community.
- The law regulates the marriage and [divorce](#) among Parsis.
- **Shariat Act 1937** - Governs the marriage in Islam. The act allows Muslim man to have 4 wives.
- The Supreme Court in **Sarla Mudgal v Union of India** held that religious conversion for the sole purpose of committing bigamy is unconstitutional.
- The Supreme Court in **Lily Thomas v Union of India** case reiterated the judgment of **Sarla Mudgal v Union of India**.
- **The Special Marriage Act 1954** - A radical legislation that proposed the requirement of monogamy.
- **Section 4** of the act states that “at the time of marriage neither party should have a spouse living”.
- **The Hindu Marriage Act 1955** - Outlawed the concept of having more than one spouse.
- Buddhists, Jains, and Sikhs are also included under the Hindu Marriage act 1955.
- **Section 17** of the act states that bigamy is an offence.
- **IPC Section 494** - Penalizes bigamy or polygamy. A person wife or husband in any case engages in second marriage should be imprisoned for a period of 7 years and liable to fine.
- This provision does not apply to a marriage which has been declared void by a court
- **Section 495 of the IPC** - Protects the rights of the second wife in case of a bigamous marriage.
- **Article 44** - States that the State shall endeavor to secure for all the citizens a **Uniform Civil Code**.

*Polygamy is the practice of having more than one married spouse (wife or husband).*

### What is the status of polygamy in India?

- **Kanwal Ram and Ors v The Himachal Pradesh Administration (1965)** - The

Supreme Court reiterated the legal position that the standard of proof must be of marriage including second marriage should be performed as per customs.

- So the live-in-relationship doesn't come into the ambit of the second marriage.
- **Desertion of marriage** - IPC Section 494 penalizing polygamy doesn't apply in case of desertion by the spouse that is who has been continuously absent for 7 years.
- **Goa** - A crucial exception to the bigamy law for Hindus is Goa, which follows its own code for personal laws.
- A Hindu man in the state has the right to bigamy under specific circumstances mentioned in the Codes of Usages and Customs of Gentile Hindus of Goa.
- These specific circumstances include a case where the wife fails to conceive by the age of 25 or if she fails to deliver a male child by the age of 30.
- **No uniform civil code** - Even now various religions are governed by their respective religion personal laws.
- **Tribal population** - Since they are governed and protected by special laws and the prevalence of polygamy is high among tribal population.

*Bigamy is the offence of marrying someone while already married to another person.*

### What is the way forward?

- Any move to outlaw polygamy for Muslims would have to be a special legislation which overrides personal law protections like in the case of [triple talaq](#).
- The tribal population needs to be educated about the consequences of the polygamy.
- Uniform civil code needs to be followed to bring uniformity across India.

### References

1. [The Indian Express | Laws That Prohibit Polygamy](#)
2. [Deccan Herald | Issues With Polygamy](#)

